

REMARKS

Claims 1-20 were originally filed in the present application.

Claims 1-20 are pending in the present application.

Claims 1, 3, 4, 6-8, 10, 11, 13-15, 17, 18, and 20 were previously amended.

Claims 1-20 were rejected in the April 21, 2005 Office Action.

No claims have been allowed.

Claim 1 is amended herein to correct an antecedent basis problem.

Claims 1-20 remain in the present application.

Reconsideration of Claims 1-20 in view of the flowing arguments is respectfully requested.

In Sections 1 and 2 of the April 21, 2005 Office Action, the Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Serial No. 09/858,245 (Publication No. 2002/0174431) to *Bowman et al.* (hereafter, simply "*Bowman*") in view of U.S. Patent No. 6,442,570 to *Wu et al.* (hereafter, simply "*Wu*"). Regarding independent Claims 1, 8, and 15, the Examiner asserted, among other things, that the *Bowman* reference teaches, for use in a communication system, an apparatus for wireless software download to a wireless communications device capable of Internet access, wherein the software to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device. See Paragraph 0029 of the *Bowman* reference. The Examiner further asserted that the *Wu* reference teaches an auxiliary device (removable memory card 112) including sufficient storage for holding software to be downloaded (column 4, lines 30-34) and a connection between the wireless communication device

and the auxiliary device wherein the software is to be downloaded to the auxiliary device and installed from the auxiliary device onto the wireless communications device (col. 4, lines 40-42).

The Applicants respectfully disagree with the Examiner's assertions regarding the subject matter disclosed in the *Bowman* reference and in the *Wu* reference. The Applicants direct the Examiner's attention to the amended Claim 1, which contains the novel and non-obvious limitations emphasized below.

1. For use in a communications system, an apparatus for wireless software download to a wireless communications device capable of Internet access comprising:

an auxiliary device separate from the wireless communications device including sufficient storage for holding program code to be downloaded; and a connection between the wireless communications device and the auxiliary device,

wherein the program code to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device to the auxiliary device and installed from the auxiliary device onto the wireless communications device (emphasis added).

The Applicants respectfully assert that the above-emphasized limitations are not taught, suggested or even hinted at in either the *Bowman* reference or the *Wu* reference, or in the combination of the *Bowman* and *Wu* references.

It is clear from the limitations recited in Claim 1 that the wireless communications device and the auxiliary device are separate devices that are coupled by the connection. Claim 1 also requires that the program coded be downloaded by means of the wireless connection of the wireless communications device and then sent to the auxiliary device. The program code is then installed from the auxiliary device back onto the wireless communications device. Thus, the wireless

communications device acts as a conduit through which the program code is transferred from the remote server to the auxiliary device. The program code is then installed in the wireless communications device from the auxiliary device.

The Applicant respectfully asserts that practically none of the essential limitations recited in Claim 1 are disclosed in either the *Bowman* reference or the *Wu* reference. Contrary to the Examiner's assertions, the *Wu* reference does not disclose "an auxiliary device ... including sufficient storage for holding software to be downloaded ... and a connection between the wireless communications device and the auxiliary device wherein the software is to be downloaded to the auxiliary device and installed from the auxiliary device onto the wireless communications device."

The portions of the *Wu* reference relied upon by the Examiner are related to Figure 1, which portrays a portable computer 100 coupled to a desktop computer 102 by a link 114. However, neither portable computer 100 nor desktop computer 102 is a wireless communications device and neither can download program code from a remote server by a wireless connection. Furthermore, the removable memory card 112 is an integral part of portable computer 100 (albeit a removable part) and thus is not separate from portable computer 100 (assuming PC 100 is intended to be the wireless communications device).

Moreover, contrary to the Examiner's assertions, Paragraph 0029 of the *Bowman* reference does not disclose an apparatus for wireless software download to a wireless communications device capable of Internet access, wherein the software to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device. The *Bowman* reference

discloses an apparatus and method for allowing a listener to retrieve and play back a song from a radio broadcast. According to the *Bowman* reference, the listener listens to a song on radio receiver 106 and then uses either mobile device 110 or computer 112 to access a server (i.e., vendor managed data processing system 122) via a network interface. The listener can then use a bookmark system to download the song or other sound recording to mobile device 110 or computer 112.

The *Bowman* reference describes the relevant portions of Figure 1 in detail in Paragraphs 0020, 0021 and 0025, which state as follows:

[0020] In this example embodiment, the user accesses a vendor managed data processing system 122, using a mobile communications device 110 or a personal computer 112, that retrieves the stored broadcast segment (e.g., song title or sound recording) from a broadcast segment database 124A. In one embodiment, mobile device 110 includes a mobile telephone, a two-way pager, a PDA or similar two-way communications device. Displays coupled to these devices, useable to display responses from DPS 122, include CRT monitors, LCD displays, mobile and regular telephone displays and personal digital assistant displays. In another related embodiment, PDAs, enhanced mobile telephones, enhanced personal audio players with wireless communication and MP3 storage capabilities, and enhanced automotive navigational/communication systems combine receiver 106, speaker 108 and mobile device 110 capabilities into a single device.

[0021] Mobile device 110 and computer 112 access DPS 122 through a network interface 114 that is coupled to a communications network 118 (the Internet or the PSTN) via a communications channel 116 (traditional or wireless, for example). Device 110 and computer 112 are configured to download application software to access DPS 122. In this example embodiment, DPS 122 is a server having a user-selected database 122A and an eligibility verification database 122B. Vendor DPS 122 is coupled to a stored broadcast segment DPS 124 that includes a stored broadcast segment database 124A having a listing of station identifiers, playlists and broadcast schedules (i.e., broadcast times and dates). Vendor DPS 122 is also coupled to an Internet storage site 126 for storage of broadcast segments that will be retrieved by the user at a later time. Vendor DPS 122 is also coupled to an audio/video retailer(s) DPS 128 to facilitate purchases of music and videos. DPS 122

is also coupled to an information provider(s) DPS 130 to facilitate retrieval of in-depth information on music, programs or other creative works of interest.

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[0025] At step 206, the bookmark is received by DPS 122 and stored in association with a user ID code in user-selected database 122A. In another example embodiment, at optional step 207, eligibility verification database 122B is reviewed to verify validity of the user ID code before the stored broadcast segment is retrieved. The user ID code is not only used to ensure that the user is registered with the identification service, but is also used to track retrieval requests for the user and to gather other demographic data to augment user profiles. At step 208, DPS 122 retrieves from broadcast segment database 124A the stored broadcast segment that corresponds to the bookmark. DPS 124 uses the digital timestamp of the bookmark as well as the station identifier to search within database 124A for the playlist of the station. In this example embodiment, at step 210 DPS 122 transmits the retrieved stored broadcast segment to mobile device 110 (i.e., user selected destination).

The Applicant respectfully asserts that the device disclosed in the *Bowman* reference has little if anything to do with the invention recited in Claim 1. In particular, the mobile device 110 described in the *Bowman* reference is not coupled to any auxiliary device and is not used to transfer program code from a remote server to such an auxiliary device.

In sum, Claim 1 recites limitations that are not disclosed, taught, suggested or even hinted at in either the *Bowman* reference or the *Wu* reference, or in the combination of the *Bowman* and *Wu* references. Thus, Claim 1 is patentable over the *Bowman* and *Wu* references. Also, dependent Claims 2-7 depend from Claim 1 and contain all of the unique and non-obvious limitations recited in Claim 1. Thus, Claims 2-7 are patentable over the *Bowman* and *Wu* references.

Furthermore, independent Claims 8 and 15 recite limitations that are analogous to the unique and non-obvious limitations recited in Claim 1. Thus, independent Claims 8 and 15 are patentable

over the *Bowman* and *Wu* references. Finally, dependent Claims 9-14, which depend from Claim 8, and dependent Claims 16-20, which depend from Claim 15, contain all of the unique and non-obvious limitations recited in Claim 8 and Claim 15, respectively. This being the case, Claims 9-14 and Claims 16-20 are patentable over the *Bowman* and *Wu* references.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.

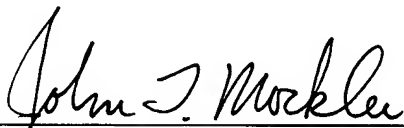
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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